EXHIBIT "B" (2 of 2)

follow, which say that they have to constantly supervise somebody who's at risk for progression to a more serious level of withdrawal?

A. You'd have to look in the correctional officers' manual or handbook for that.

Q. You don't know?

A. No.

Q. And in terms of individuals who are at risk for progression to a more serious level of withdrawal, is that a determination that the AmeriCor nurses make?

A. Yes.

Q. And they would then notify correctional staff, that that person needs to be on constant observation?

A. Yes.

Q. The next page, 562, first full paragraph, "The following procedures will be implemented for addicted inmates, who have normal vital signs and who are stable and otherwise healthy."

Do you see that?

A. Yes.

Q. Prior to November 27th, 2006, how would a nursing staff know if an inmate had normal vital signs, if that wasn't required?

A. The fact that vital signs are not required, does not mean that they are not done.

Q. Well, do you know, as a matter of routine practice, if nursing staff did check inmate vital signs at any period of time after they arrived into the facility?

A. Well, they would take vital signs if they saw an inmate, for instance, in sick call. If an inmate came in and looked healthy and was not exhibiting any signs and symptoms -- in this case of drug withdrawal -- but they complained later through the sick-call process, or they utilized the 24-hour access to medical that they have, then at the time the nurse saw them, they would be evaluated; vital signs would be taken.

Q. In terms of the following procedures being implemented for addicted inmates, when do those procedures come into play? Is it at intake or something else?

A. It can be both.

Q. So, in terms of the intake process,

do you know if anybody here ever checked Spencer Sinkov's vital signs?

A. I don't know that they did.

Q. Do you know if anybody, subsequent to intake, ever checked his vital signs?

A. No.

Q. When Susan Waters made the referral to mental health for a history of substance abuse, do you know if she ever checked Spencer's vital signs?

A. No.

Q. And in terms of inmates who have normal vital signs and who are stable and otherwise healthy, there are five paragraphs in terms of the procedures that are supposed to be implemented.

Did you see that?

A. Yes.

Q. Were those actually ever implemented by AmeriCor?

A. I'll have to read them.

(Pause in the record)

Yes.

Q. And in terms of Number 2, does that

refresh your recollection that Methadone is not used as a matter of policy at the Putnam County Correctional Facility?

A. As a matter of policy, Methadone is not used.

Q. And in terms of Number 4, "Nurses will monitor inmates on a regular basis during detoxification."

Do you see that?

A. Yes.

Q. What does that require?

A. That goes back to the Drug and Alcohol Flow Sheet that we were talking about.

Q. So, this would be only after somebody exhibits a sign or a symptom that a nurse is aware of pertaining to withdrawal?

A. Yes.

Q. Not before?

A. Well, they'd have to be exhibiting some signs or symptoms in order to initiate the process.

Q. The nurse would have to be aware, you're saying?

A. I'm saying that the inmate would

need to be demonstrating some signs or symptoms of withdrawal before the process would be initiated. Otherwise, there wouldn't be any reason to treat it.

Q. And the nurse would have had to have knowledge of that; correct?

A. Yes.

Q. And the nurse finds out about it, only by reason of the inmate asking to see the nurse, or by reason of a correction officer advising the nurse?

A. Or by the nurse observing the symptoms him or herself.

Q. Do you know if in this case Spencer Sinkov ever asked for any medical assistance?

A. I am not aware of that, no.

Q. Do you know if in this case any correction officer made any observation with respect to signs or symptoms of withdrawal?

A. No.

Q. Do you know if any nursing staff made any such observations?

A. No.

Q. Did you ever see any Progress Notes

that were created with respect to Spencer?

A. If they're in the medical record, I saw them.

MS. BERG: Let me have marked as 26 a copy of the Progress Note, which has the date 5/20/06 on the bottom right-hand written number 69.

(Whereupon, 5/20/06 Progress Note was marked as Plaintiff's Exhibit No. 26, for id.)

Q. Did you ever speak with Peter Clarke about the intake of Spencer, other than what you've testified to here already today?

A. No.

Q. Did you ever speak with any correction officer about the intake of Spencer?

A. No.

Q. Including Vasaturo?

A. No.

Q. Did you ever speak with him at all?

A. I probably know who Vasaturo is, but I can't associate a name and a face.

Q. Do you recall ever speaking with him about Spencer Sinkov?

A. No.

Q. How about Sergeant LaPolla, did you ever speak with him about Spencer Sinkov?

A. No.

Q. Did you ever see Exhibit 26?

A. Again, if it was part of the record, I saw it.

Q. Well, do you remember it, as you sit here today?

A. Not specifically.

Q. Do you recognize that as a -- the form, itself, as the Progress Note form used by AmeriCor?

A. Yes.

Q. And do you know whose handwriting that is?

A. No.

Q. It seems to be at the end of the entry signed by P.A. Clarke.

Do you see that?

A. Right, yes.

Q. And it appears to say, "Received in booking, AEO."

A. Yes.

Q. (Reading) Normal gait. Non-tremulous. Good spirits. Stats: Feels fine. It probably should be states, feels fine. Last used herlon (sic) -- probably should be heroin -- 24 hours ago. Will monitor.

Correct?

A. Yes.

Q. What does "AEO" mean?

A. Alert and oriented.

Q. And the bottom right, the number 69. I'm going to tell you that that pertains to the numbering that the New York State Commission of Correction put on the documents that were provided to it as part of its investigation.

Did you ever see any Progress Notes, other than this one pertaining to Spencer Sinkov?

A. If they were in the medical file, I saw them.

Q. Did you ever speak with anybody about what, if anything, Paul -- I'm sorry -- Peter Clarke did to monitor, as indicated in his Progress Note - "Will monitor"?

A. No.

Q. Do you know if Clarke ever advised

anybody to monitor Spencer?

A. No.

MS. BERG: I'm going to have marked as Exhibit 27 a copy of a Progress Note which is for the same date, has additional notes, and does not have the handwritten number on the bottom right corner.

(Whereupon, 5/20/06 Progress Note was marked as Plaintiff's Exhibit No. 27, for Id.)

Q. Have you ever seen Exhibit 27 before? *(Handing)*

A. Yes.

Q. Do you recall when for the first time?

A. No.

Q. Do you recall under what circumstances?

A. It would have been in review of the medical record following Mr. Sinkov's death.

Q. Do you recall if you or anybody from AmeriCor provided this Progress Note, Exhibit 27, to the State Commission?

A. I don't know who provided the

records to the Commission.

Q. Did you?

A. No.

Q. Do you know if, in fact, Exhibit 27 was ever sent to them?

A. No.

Q. Do you have any explanation as to why the Progress Note, Exhibit 26, doesn't contain, as Exhibit 27 does, the additional notes?

A. Not specifically; but under general procedure, when an inmate dies for whatever cause, the medical record is immediately secured, and that might happen before the person on the shift is finished documenting.

Q. And in terms of the Progress Note, Exhibit 27, it appears to have, at least at the top, it was photocopied with Nurse Clarke's entry, and then added to; correct?

A. I can't tell that from here, but okay.

Q. Do you have any understanding as to when Susan Waters made the entry right below Peter Clarke's, which appears to say, 11 a.m.?

A. No.

Q. Do you know if she did that at 11 a.m. or at a different time?

A. No.

Q. Did you ever speak with her about that?

A. Not that I recall.

Q. Did Susan Waters ever indicate to you, in words or in substance, that she went back to the Progress Notes and added something after Spencer had committed suicide?

A. No.

Q. Are there any policies or procedures with respect to performing CPR?

A. I can't think of any specific policies and procedures, no.

Q. Are there any policies and procedures that you're aware of with respect to who can stop CPR?

A. No.

Q. Or under what circumstances it can be stopped?

A. No.

Q. Were you aware that Spencer was

placed on a fifteen-minute supervisory check?

A. Yes.

Q. Do you know who made that determination?

A. No.

Q. Do you know if AmeriCor staff participated in that determination?

A. No.

Q. Did anybody ever explain to you any reason or reasons why Spencer was placed on a fifteen-minute supervisory check?

A. Not that I recall.

Q. Did you ever see Exhibit 4, which is a memorandum done by Correction Officer Vasaturo, listing the reason or reasons why Spencer was on the 15-minute check?

A. I don't recall seeing this document before.

Q. Do you recall any conversations with Richard DiMattio about Spencer?

A. I'm sure that we discussed it.

Q. Do you recall anything that you said or that he said, either specifically or in substance?

A. **No.**

Q. Anything you could use to refresh your memory?

A. **I don't think so. I'm sure that we discussed it over the phone following Mr. Sinkov's death; but when they occurred, and what the substance of them was outside of a general review of what was available to us, no.**

Q. In connection with the subsequent contracts that you entered into with the County -- that AmeriCor entered into with the County, did you submit something similar to what's before you in terms of Schedule A and the services to be provided?

A. **No.**

Q. Did you base it on -- the renewed contracts, were they based on the same services to be provided that you listed in connection with the 2003 contract?

A. **Except where the contract was amended, yes.**

Q. And in the case of the amendments that were indicated right in the face of the contract, correct, such as with the mental health

services?

A. **As I recall, the amendments were taken care of through correspondence from me to the county, and then those letters were incorporated as a part of the addendum that renewed the contract.**

Q. And with respect to the initial services, the outline that's before you -- just give me the exhibit number on that.

A. **This one? (*Indicating*)**

Q. Yes.

A. **Twenty-five.**

Q. -- as Exhibit 25, was there any removal, if you will, of any of those provisions?

A. **No.**

MS. BERG: I'm going to have marked as the next exhibit, 28, AmeriCor, Inc. procedure Manual, Putnam County Correctional Facility, 2003, which is Bates stamped 487 through 532.

(Whereupon, AmeriCor, Inc., Procedure Manual, Putnam County Correctional Facility, 2003, was

marked as Plaintiff's Exhibit No. 28, for id.)

Q. Do you recognize Exhibit 28? *(Handing)*

A. **Yes.**

Q. Is that the initial Policy Manual that you drafted?

A. **Yes.**

Q. And did you do that at some point in time in July or August of 2003?

A. **Yes.**

Q. And if you flip through, just generally, the specific policies that are included, they actually have a date on the top of each; correct?

A. **Yes.**

Q. Turn, if you would, to the page that's Bates stamped 494.

A. **(*Witness complies*)**

Q. "Procedure: Receiving Screening." It's dated August 13th, '03; correct?

A. **Yes.**

Q. Was that still in effect as of May 20th, 2006?

A. **I don't know. Probably.**

Q. Do you know of any changes that were made to this policy from 2003?

A. **I don't remember any.**

Q. It says at the bottom paragraph, "If the inmate is medically stable but requires medical follow up; e.g., intoxicated but subject to going into withdrawal." It continues, "The nurse will accept the inmate, document the medical condition in the inmate's medical record; and depending on the inmate's medical problem, either contact the physician for orders or schedule the inmate to be seen at the next physician's sick call."

Do you see that?

A. **Yes.**

Q. What is the sick call?

A. **The sick call is when the physician comes in and sees inmates based on the list of the people that are referred to him that we talked about earlier.**

Q. And that would be the list that includes those inmates who request to be seen, as well as those who nursing staff believe the

physician should see?

A. No. It would not necessarily include inmates who requested to be seen by the physician, but it would include those that the nurse wanted the physician to see.

Q. And do you know when sick call was performed in or about May of 2006?

A. No.

Q. Do you know if it was on set days?

A. I don't believe it's ever been on set days. It depends on the physician's schedule.

Q. Do you know -- for example, Spencer came in on May 20th -- when the next sick call was?

A. No.

Q. Did anybody ever indicate to you, in words or substance, that they believed Spencer was subject to going into withdrawal?

A. No.

Q. Do you know if anybody ever contacted a physician for orders pertaining to Spencer?

A. No.

Q. Do you know if anybody scheduled him

to be seen at the next physician's sick call?

A. No.

Q. The next page, on the bottom, it refers to, "All Receiving Screenings are to be documented, both on the Shift Report form and in the History and Physical logbook.

Do you see that?

A. Yes.

Q. Is the History and Physical logbook something that actually exists?

A. Yes.

Q. Where is that maintained? At the jail?

A. At the nurses' station.

MS. BERG: I'm going to call for production of the History and Physical logbook for May 19th and May 20, 2006.

MR. COON: I'll take it under advisement.

*DOCUMENT/DATA REQUESTED:*_____

MS. BERG: Can we have marked as Exhibit 29, a copy of AmeriCor, Inc., Shift Report for

5/20/06, 7:30 to 4:00 p.m. shift.

(Whereupon, two-page 5/20/06 Shift Report was marked as Plaintiff's Exhibit No. 29, for id.)

Q. Just in terms of the format, in general, is that the shift report that you testified about earlier?

A. Yes.

Q. And the second page, is that part of the shift report, as well?

A. It's the back of the front page. It's a two-sided form.

Q. And is the nurse required to complete both sides before leaving his or her shift?

A. Yes.

Q. In terms of the first page, do you see that it's Sue Waters' Shift Report for 7:30 to 4:00 p.m.?

A. Yes.

Q. There's nothing noted on there about her seeing Spencer Sinkov; correct?

A. No.

Q. And on the second, or the back side,

if you will, which is Bates stamped 50 at the bottom, there's no notes at all on that page; correct?

A. Correct.

Q. Under the section "Matters that need to be followed up," did you ever see any Shift Report which indicated that Spencer in any way needed to be followed up?

A. Not that I recall.

MS. BERG: I'm going to have marked as Exhibit 30 a copy of an AmeriCor, Inc. Policy Manual for the Putnam County Correctional Facility, November, 2004.

(Whereupon, AmeriCor, Inc. Policy Manual, Putnam County Correctional Facility, 2004, was marked as Plaintiff's Exhibit No. 30, for id.)

Q. Do you recognize Exhibit 30?

(Handing)

A. Yes.

Q. Is that another Policy Manual that was issued by AmeriCor to its employees?

A. Yes.

Q. Was that issued in or about November, 2004?

A. Yes.

Q. Do you recall why this was issued at this time?

A. This was in preparation of the National Commission's accreditation review.

Q. And were these policies actually implemented, then?

A. Yes.

Q. And were they still in effect as of May 20th, 2006?

A. Unless they had been revised, yes.

Q. And if they were revised, where would that be contained?

A. Hopefully, the revisions would be in here. They — for instance, there's an effective date on one of these of May 11th, but there's a revised date of November 15th.

Q. So, it would be contained within the physical documents, Exhibit 30?

A. Yes.

Q. And in terms of the 2003 Procedure Manual, which we marked as Exhibit 28, did those

policies continue to remain in effect after Exhibit 30 was implemented in November of '04?

A. Well, you're confusing "Procedure Manual" and "Policy Manual."

Policy Manual is a general statement of what is done, and the Procedure Manual is a specific statement of how its done.

Q. So, in other words, the procedures in Exhibit 28 did remain in effect continuing up to and after the November, 2004, Policy Manual came out?

A. If I understand your question, yes.

Q. Do you have confusion about it? Let me ask you this directly: Exhibit 28, did it ever, at any point in time, become rescinded or revoked?

A. No.

Q. And the 2003 procedures, then, were they in effect as of May 20th, 2006?

A. Yes.

Q. Take a look, if you would, at Bates stamped Page 388.

A. We're on Exhibit 30?

Q. Correct.

A. And it was three —

Q. 388. "Communication on Special Needs Inmates."

A. Okay.

Q. It says, "Effective date: May 11, '03. Revised: November 15, '04;" correct?

A. Yes.

Q. Where is the original policy that was effective May 11, '03?

A. At corporate office.

Q. So, there's another version of this Policy Manual?

A. No. When a policy is put into effect, it goes into this manual. When it is revised, the original is taken out and filed, and the revised document is then inserted into the manual so that it is kept up to date but it doesn't get tremendously bulky because you've got 14 old things in there.

Q. Were there any other Policy Manuals issued after November, 2004, or is this the most recent one?

A. I don't recall. I'd have to look.

MS. BERG: Okay. I'm going

to call for the production of any other Policy Manuals.

MR. COON: We'll take it under advisement.

DOCUMENT/DATA REQUESTED:

Q. Going back to Bates stamped 388, the first paragraph: "Health care personnel are required to notify correctional personnel regarding an inmate's significant health needs that may effect classification decisions involving the inmate's housing assignment," et cetera.

Do you see that?

A. Yes.

Q. "Correctional personnel should consult with medical personnel before making any movements or decisions involving inmates with special needs."

Do you see that?

A. Yes.

Q. And the definition of special-needs patients are those who are:" And there are ten listed; correct?

A. Yes.

Q. One of them being, "Number 6: Mentally ill or suicidal."

A. **Yes.**

Q. Do you know if, in the case of Spencer Sinkov, health-care personnel at any time notified any corrections personnel with respect to anything pertaining to Spencer Sinkov?

A. **Not that I'm aware of.**

Q. Are you aware of whether any correctional personnel consulted with nursing staff or other AmeriCor employees before making any decisions about Spencer, including his housing?

A. **Not that I'm aware of.**

Q. Take a look, if you would, at Bates stamped 421 to 422, "Receiving Screening."

A. ***(Witness complies)***

Q. That was effective on May 11th, '03. Revised or reviewed on November 15th, '04; correct?

A. **Yes.**

Q. Were there actually any revisions to this, or was it just reviewed, if you know?

A. **I don't recall whether there was a**

revision or just a review.

Q. Okay. It says in the third paragraph, "At a minimum, the Receiving Screening will include inquiry into:" And then it lists six things.

A. **Correct.**

Q. And is that the Receiving Screening that is done by the correction staff and/or the AmeriCor staff together?

A. **The one generally done by the correctional staff is reviewed by the nursing staff, yes.**

Q. So, meaning on the medical intake form, itself?

A. **Yes.**

Q. And the fourth paragraph -- fourth numbered paragraph, specifies, "Inquiries should be made into use of alcohol and other drugs, including types of drugs used, mode of use, amount used, frequency used, date or time of last use, and a history of problems which may have occurred after ceasing use; e.g., convulsions."

Do you see that?

A. **Yes.**

Q. Are you aware of whether or not anybody, either correctional or AmeriCor, inquired of Spencer Sinkov about any of those things?

A. **No.**

Q. Did you ever ask anybody, as part of your looking into Spencer's death, whether or not AmeriCor staff followed up to see anything about the types of drugs he used, the mode of use, the amount, or the frequency?

A. **Not that I recall.**

Q. In terms of the next section, "The Receiving Screening should include observation of:" And then there are four sections; correct?

A. **Yes.**

Q. One of them is "appearance," one of them is "behavior," one of them is "breathing," and the fourth is "condition of the skin;" correct?

A. **Yes.**

Q. Do you know if anybody from AmeriCor ever looked to see, with respect to condition of the skin, whether or not he, Spencer, had needle marks or other indications of drug abuse?

A. **No.**

Q. Did you ever see any documents which showed that that had been done?

A. **Not that I recall.**

Q. If a correction officer does the screening and neglects to ask questions about what's required by AmeriCor's policies here, are AmeriCor staff required, as part of their review of those forms, to follow up with the inmate?

A. **The nurses review the record within four hours that we talked about. And if they have questions about information that is provided, then they have the ability to go see the nurse and do an eyeball, or physical evaluation/assessment, whatever.**

Q. One-on-one with the inmate, you mean?

A. **Yes.**

Q. And do you know if -- in this case, if, upon reviewing any of the medical intake forms, anybody from AmeriCor went and did an eyeball of Spencer to see what information they could get that was not included in the medical intake form?

A. **One of the documents that you showed**

A. **Yes.**

Q. What?

A. **In the case of the TB information, they would be required to follow up with the inmate to determine the inmate's status because at some point, the inmate would get tested for TB, and we'd need to know whether they had been tested before or not.**

Q. Now, let's assume that as part of the medical intake, there was no inquiry done into, number one on policy, Page 421: "Current illnesses, health or dental problems, infectious and communicable diseases."

Would the nursing staff be required to follow up to get that information?

A. **If it indicated that, for instance, an inmate had a communicable disease, yes, they'd be required to follow up.**

Q. Let's assume there was nothing indicated on the form one way or the other.

A. **Then, that would get taken care of during the physical assessment.**

Q. And that would be, then, within 14 days?

A. **Yes.**

Q. Not before?

A. **Not necessarily not before. Again, it depends. I mean, you have to keep in mind the inmates have 24-hour-a-day/seven-day-a-week access to health care. All they have to do is ask, and the officer will either report it through, or the inmate fills out the form, drops it into the box. Those are picked up every night. So, there are multiple ways for this information to get to medical. That's the way the system is designed.**

Q. Do you know if that's the way the system actually functions?

A. **Yes, it does.**

Q. You're sure of that?

A. **Yes, I am.**

Q. With respect to this policy, "Receiving screening at minimum will include inquiry into medications taken and special health requirements, including dietary requirements." This is at page 421.

If the intake form was blank with respect to medications, would a nursing staff

person be required to follow up after reviewing that form and realizing that section was blank?

A. **For that specific example, no.**

Q. Why not?

A. **Because if an inmate's on medication, he or she is gonna tell you that when they come in there.**

Q. You're assuming that.

What if it's not indicated on the form, and there's no record that it was ever asked?

A. **That inmate's gonna let you know that he or she is on medication.**

Q. You're sure of that?

A. **One way or the other.**

Q. You're sure of that?

A. **Yes.**

Q. Have you ever performed bookings of inmates who come into the facility, having used drugs or alcohol?

A. **Yes.**

Q. And how much experience have you had in that?

A. **It's been a while since I did it**

personally, but I spent several years doing it.

Q. Did you ever come across inmates who come into the facilities that are not forthcoming about volunteering information that's not asked of them?

A. **In some cases. Not where it involves drugs.**

Q. Take a look, if you would, at Exhibit 7, which is the Medical Screening Intake form.

A. **Okay.**

Q. The second page.

A. ***(Witness complies)***

Q. Number 25: "Illegal drug use" is checked, "Yes." And then in terms of the comments all it says is, "24 hours, heroin."

Do you see that?

A. **Yes.**

Q. Do you know if that means that he used it for 24 hours? Twenty-four hours ago? Twenty-four hours was the first time? Any idea?

A. **That means his last use of heroin was 24 hours prior to this.**

Q. And there's no indication on this as

to the amount of heroin used; correct?

A. Correct.

Q. Or the frequency?

A. Correct.

Q. And there's no indication as to the mode of use?

A. Correct.

Q. Above that, Number 24 -- 23, excuse me -- refers to "Rehab." That is also checked "Yes," and it says "Six months ago."

Do you see that?

A. Yes.

Q. Twenty-one: "Hospital" is checked "Yes," and it says "Detox, Putnam Hosp., six months ago."

Do you see that?

A. Yes.

Q. There's no indication on this form about anything concerning what happened when he went through detox six months earlier in terms of withdrawal symptoms; correct?

A. Correct.

Q. And there's no indication that anybody asked him anything about whether he had

any problems that occurred after he stopped using drugs on that occasion?

A. Correct.

Q. And is that something that should have been done, by reason of AmeriCor policy, Pages 421 to 422?

A. That would have occurred as part of the physical assessment.

Q. Meaning, the history and physical that's done within 14 days?

A. Yes.

Q. Not at the Receiving Screening?

A. No.

Q. Then, why is the policy at Page 421 to 422 referred to as "Receiving Screening"?

A. The policy refers to Receiving Screenings conducted by AmeriCor personnel. In this case, the Receiving Screenings were conducted by the correctional officers. And we don't write the policies and procedures for what the correctional officers do or don't do.

Q. Did you ever speak to anybody from Putnam County or from the facility with respect to your view as indicated in this policy that

these areas at minimum should be inquired into on the Receiving Screening?

A. Not that I recall.

Q. Did you ever provide anyone at the facility -- not staff, not nursing staff, but I mean, corrections county employees, you know, at any level, sheriff or below, with these policies, Exhibit 30?

A. The facility has a copy of our Policy Manual.

Q. How do you know that?

A. Because I gave it to them.

Q. Who did you gave it to?

A. Capital LeFever.

Q. Did you ever have any conversations with him about what correction officers should do at a Receiving Screening?

A. Not that I recall.

Q. So, in the case where a correction officer does the Receiving Screening, this whole section, 421 to 422, would have no applicability. Is that what you're saying?

A. I don't know that I would phrase it that way.

Q. Well, how would you phrase it?

A. This policy directs what AmeriCor personnel do.

Q. Only if they're the ones doing the Receiving Screening, you're saying?

A. Yes.

Q. So, in the case where a correction officer does a Receiving Screening, AmeriCor personnel do not have to abide by Pages 421 to 422?

A. I'm not sure that there is an answer to that question because if they're not doing it, then whether they abide by it or not, becomes irrelevant.

I don't want to spar with you, but there's somebody else filling this form out, and this policy refers specifically to what a registered nurse conducting a Receiving Screening would be required to do as an employee of AmeriCor.

Q. In any event, we're in agreement that the AmeriCor nurse is required to review the correction officer's Receiving Screening?

A. Yes.

Q. Within four hours; correct?

A. Yes.

Q. Are there any policies which indicate one way or the other whether or not the nurse who conducts that review is required to do anything if certain aspects of that Receiving Screening are not completed?

A. Not specifically.

Q. Is there any training that's provided that you know of, where a nurse is instructed what to do if, upon review of that Receiving Screening, they feel there were omissions?

A. I guess it would depend on the omission.

Q. Well, what if it was --

A. I mean, if the thing says — if the form comes to the nurse and it says, hospitalized ten years ago, I don't know that that requires any follow up.

If it says the inmate is eight months pregnant, then, yeah, I would expect follow up.

Q. Well, was that ever communicated to

AmeriCor staff verbally or in writing, as far as you know?

A. Specifically, I don't know.

Q. Go back, if you would, to the 2003 policy -- I'm sorry -- Procedure Manual, Exhibit 28, Page 518.

A. *(Witness complies)*

Q. It's a three-page procedure with respect to opiate detoxification.

Do you see that?

A. Yes.

Q. And that would include heroin; correct?

A. Yes.

Q. This procedure in the second -- I'm sorry. In the first paragraph says, "Inmates who report a history of opiate, including but not limited to heroin and Methadone use, when committed to the facility are to be evaluated for the potential for the onset of symptoms of narcotic withdrawal."

Do you see that?

A. Yes.

Q. When is that evaluation done?

A. It can be initiated at several points.

Q. Is it required to be initiated at any particular point, such as at intake, or within four hours, or something like that?

A. It is not required, no.

Q. And so, if an inmate comes in and reports a history of using heroin, are there any -- is there any range, if you will, as to when the evaluation should take place?

A. It would depend on whether the inmate were symptomatic or not.

Q. And in terms of symptoms, the next paragraph says, "Symptoms depend on the frequency and pattern of use, the amount of opiate consumed, and the period of time elapsed between the last use of the narcotic and the time of commitment to the facility. These factors should be documented as part of the nursing assessment."

What is the nursing assessment that's referred to in that procedure?

A. It would be the assessment done on intake.

Q. And so, when an inmate reports a

history of heroin or opiate use, the nurse is required to assess those particular factors?

A. If there is evidence to support it, yes.

Q. What would evidence to support it consist of?

A. If the inmate were showing symptoms.

Q. Only if they're showing symptoms at the time of intake?

A. Generally, yes.

Q. What if they have needle marks in their arms?

A. The nurse would probably lend more credence to the report of abuse then if there were no track marks.

Q. Do you know if in Spencer's case, he had any track marks?

A. I think you asked me that.

No, I'm not.

Q. Did you ever see photographs of him?

A. No.

Q. Do you recall seeing any photographs that were taken after he committed suicide?

A. No.

Q. It says here, "Symptoms, when they occur, may range from mild to severe and will generally peak between 24 and 72 hours after the last use."

A. Yes.

Q. Did you write this procedure?

A. Yes.

Q. Where did you get that information?

A. From the literature, from documents that I was familiar with, and from experience.

Q. And these were all things that you knew of on or before March 3rd of 2004?

A. Yes.

Q. Have you, since that time, learned of anything that would cause you to write or change in any way this procedure in terms of symptoms appearing -- or peaking, I should say, between 24 and 72 hours after use?

A. No.

Q. In terms of signs of mild withdrawal, was there any indication in any of the records you saw about Spencer, including the ones I showed you today, as to whether or not he had a runny nose?

A. No.

Q. Anything about whether or not he had watery eyes?

A. No.

Q. Anything about whether or not he had loss of appetite?

A. No.

Q. Anything about whether or not he had hot or cold flashes?

A. No.

Q. Anything about whether or not he felt anxious or exhibited anxiety?

A. Based on what I reviewed earlier, I'd say he didn't have any of these symptoms.

Q. In terms of the moderate symptoms --

A. Right.

Q. -- do you know if anybody ever inquired as to whether or not he felt nauseous?

A. Not specifically.

Q. Do you know if anybody ever asked him whether or not he had muscle cramps?

A. No.

Q. The procedure at the bottom in terms of the letters A, B, and then onto the next page,

documentation, basic meds, and withdrawal medications, are those the procedures that come into place that you testified about earlier, only after the inmate exhibits symptoms of withdrawal?

A. Yes.

Q. And in terms of the symptoms of mild withdrawal, do you know if anybody on the nursing staff ever checked with Spencer at any point in time from intake until the time that he committed suicide to see if he had any of those mild symptoms?

A. No.

Q. Was this procedure still in effect as of May 20th, 2006?

A. To the best of my knowledge, yes.

Q. Did you ever communicate with the State Commission of Correction with respect to Spencer Sinkov?

A. Yes.

Q. In writing, or verbally, or both?

A. In writing.

Q. Anything verbal?

A. No.

MS. BERG: Can we have marked as Exhibit 31 a copy of a

letter dated October 23rd, 2006, on AmeriCor, Inc. letterhead to Commissioner Lamy.

(Whereupon, three-page 10/23/06 letter was marked as Plaintiff's Exhibit No. 31, for id.)

Q. Did you send Exhibit 31 to the New York State Commission of Correction after reviewing its initial report on the death of Spencer Sinkov?

A. Yes.

Q. And that's your signature -- sorry. Go ahead.

A. Before we get any further, what was the answer to --

MS. BERG: We're going to take a break for lunch, but we're going to try to get you out of here before we do that, so if you want to take a few minutes now --

THE WITNESS: How long is it going to take to finish up, approximately?

MS. BERG: I don't know.

Maybe ten or 15 minutes.

THE WITNESS: That's fine. Okay.

MS. BERG: You're sure?

THE WITNESS: Yes.

Q. On the last page of Exhibit 31, that's your signature?

A. Yes.

Q. Did anybody assist you in drafting this?

A. No.

Q. In terms of the information pertaining to the intake screening, what, if any, information were you provided with, other than the medical record on which you based those statements?

A. Well, I had the Commission's report, and I had the medical record.

Q. Did you, for example, get information from Nurse Paul Clarke -- Peter Clarke, excuse me -- about what you put in your letter to the Commission?

A. Based on what's in here, I'm sure I spoke to Peter.

Q. Do you recall doing so as you sit

here today?

A. Yeah. It seems to me I talked to him on the phone.

Q. Do you recall anything that he said to you or that you said to him?

A. I don't remember the -- all of the details of the conversation. What stuck in my mind was that when he initially saw Mr. Sinkov, he didn't -- he wasn't aware that he was an inmate. Okay? As I recall, Peter said he was laughing and talking and, you know, so forth and so on. And it wasn't until Mr. Sinkov did something specific that Mr. Clarke realized, wait a minute; this guy is an inmate.

Q. What did he do? What did Spencer do?

A. He sat down in a specific chair that nobody but an inmate would sit in.

Q. Did Peter Clarke ever indicate to you how long, in total, he observed Spencer on May 20th?

A. Not that I recall.

Q. Or how long in total he spent communicating with him?

A. No. He talked with him; I don't know how long it lasted.

Q. Do you know if it was more or less than five minutes?

A. I wouldn't hazard a guess on that.

Q. In letter C under Number 1, intake screening: "While Inmate Sinkov did score high enough on the Suicide Prevention Screening Guidelines to warrant follow-up services..."

You wrote that; correct?

A. Yes.

Q. What follow-up services were required or warranted, to use your words?

A. If Mr. Sinkov had been withdrawn, or crying, or agitated, in some way indicating that he was distraught or if he had said to Mr. Clarke, you know, as an example, "I can't believe I'm in jail; I'm going to kill myself," that would warrant follow up. It would have to be something, either appearance-wise or verbally communicated to him, that would warrant follow up.

Q. Well, correct me if I'm wrong, but I'm reading here that you wrote that his score on the Suicide Prevention Screening Guidelines did warrant follow up.

A. Well, as I indicated earlier, what

is on the report does not necessarily coincide with what the nurse gets out of his or her assessment.

Q. So, in terms of Susan Waters' referral to mental health, why would that be done if there was no indication to anyone that Spencer had any problems that he was presenting?

A. Auto reflex.

Q. What does that mean?

A. It means that sometimes you just make the referral and let somebody else make the assessment/determination for a specific thing.

Q. Do you know why Susan Waters would have been reviewing, specifically, Spencer Sinkov on her shift?

A. She was probably following up on who came in on the shift before her.

Q. Do you know, one way or the other, whether or not she was doing that?

A. No.

Q. You write in the last sentence, "Later that same morning, the day shift R.N. also completed a referral form."

A. Yes.

Q. And that's Susan Waters; correct?
A. **Yes.**
Q. Do you recall what you based your statement on here that she did that sometime in the morning of May 20th, 2006?
A. **Not specifically.**
Q. On the second page, letter E, the last sentence talks about Sheriff Donald Smith recommending vital signs.
Do you see that?
A. **Yes.**
Q. Do you recall having a conversation or communication in writing with him about that?
A. **Yes.**
Q. What did he say to you, and what did you say to him?
A. **We were at a meeting, and he noted that the Commission thought that vital signs should be performed or obtained; and as a matter of facility policy, even if it wasn't required, he thought it was a good idea that we do it. And I said, okay.**
Q. Do you recall who was in attendance at that meeting?

A. **Not specifically, but it probably would have been me, the sheriff, the captain and Mr. DiMattio.**
Q. You're guessing?
A. **Yes.**
Q. Anything else that the sheriff ever communicated to you in writing or verbally about vital signs being taken?
A. **He asked at a subsequent meeting if the change had been made, and I assured him that it had.**
Q. And the change was the one noted in DiMattio's November 27th, 2006, memo to the nursing staff?
A. **If that was the one that said take vital signs on everybody, yes.**
Q. This is Exhibit 24. *(Handing)*
A. **Thank you.**
(Witness peruses record)
Yes.
Q. So, at the time that you wrote to the Commission, October 23, 2006, that policy had already been implemented?
A. **Yes.**

Q. It was just confirmed in writing some month later?
A. **Yes.**
Q. Other than that letter that's before you as Exhibit 31, did you have any other communications with the Commission?
A. **No.**
Q. Did the county, to your knowledge, conduct any investigation with respect to Spencer's death?
A. **Yes.**
Q. To your knowledge, what did that involve?
A. **I don't know. I wasn't involved in it.**
Q. Did anybody question you?
A. **No.**
Q. Did you provide a statement to anyone?
A. **No, not that I recall.**
Q. Do you know if any of your employees were questioned?
MR. COON: By the county?
MS. BERG: Yes.
A. **I'm sure they must have been, but I**

don't remember where and under what circumstances.
Q. Do you know if any of them provided statements, sworn statements?
A. **If they did, I would not have seen them.**
Q. Take a look again at the 2004 manual, Exhibit 30.
A. ***(Witness complies)***
Q. The pages Bates stamped 448 to 450, "Policy: Suicide prevention." The first paragraph refers to, "Inmates will be evaluated for potential risk of suicide during the intake process, using the Receiving Screening form and where applicable, the Suicide Prevention Screening Guidelines form or a similar evaluation tool."
Do you see that?
A. **Yes.**
Q. "Inmates determined to be at risk as a result of this screening process will be placed on suicide precautions and immediately referred to the psychiatrist."
Do you see that?

A. Yes.

Q. And in terms of those who are determined to be at risk as a result of this screening process, that would be as a result of the administration of, in Putnam's case, the Suicide Prevention Screening Guidelines form?

A. Yes.

Q. And in terms of suicide precautions, what does that mean?

A. Observation.

Q. What level of observation?

A. It can be 15 minutes. It can be constant. In some facilities, there's a third level, called a close watch.

Q. Take a look at the next page, 449: "Inmates who are placed on suicide precautions, will be placed in the facility's mental-health unit or placed on regular observation status, such that they are subject to monitoring by correctional and/or health-care personnel. Monitoring should occur every 15 minutes while the inmate is on suicide precautions."

Do you see that?

A. Yes.

Q. So, in terms of AmeriCor's policies, the suicide precautions were 15-minute watches?

A. Yes.

Q. And were nursing staff required to actually see the inmates on suicide precautions every 15 minutes?

A. No.

Q. Well, who would do that, then?

A. The officer.

Q. Back to Page 1, the portion of the sentence I just read in the first paragraph: "Inmates determined to be at risk as a result of this screening process will be immediately referred to the psychiatrist."

Do you see that?

A. Yes.

Q. That means during the intake process; correct?

A. Not necessarily.

Q. You don't believe that that's what your policy provides for?

A. I believe "immediately" here is intended to mean that the referral should be made as soon as possible.

Q. That's not what it says, though; correct?

MR. COON: Objection. The document speaks for itself. It's argumentative.

Q. Does the document say "as soon as possible"?

A. No.

Q. At the bottom it says, "Revised and reviewed, November 15, 2004;" correct?

A. Yes.

Q. The second paragraph refers to, "Training for health-care personnel will occur annually."

Do you see that?

A. Yes.

Q. Were health-care personnel, AmeriCor employees, actually trained annually?

A. I believe they were.

Q. Would it refresh your recollection if I told you that the first time any AmeriCor employee received training on suicide prevention was in November of 2006? Two years later.

A. I'm sorry. Again?

(Question read)

A. No.

Q. You believe there was training before that time?

A. Yes.

Q. Are you aware of any records that would indicate that such training was given?

A. There may be. I don't recall any specific ones.

MS. BERG: I'm going to call for the production of any records that would indicate suicide-prevention training being given to AmeriCor employees, other than the November, '06, records.

MR. COON: I'll take it under advisement.

*DOCUMENT/DATA REQUESTED:*_____

Q. Did the Putnam County Correctional Facility have a mental-health unit, as far as you know?

A. No.

Q. Was AmeriCor providing services to the facility at the time that Norberto Rivera

committed suicide?

A. We were providing medical and dental services.

Q. Was the nursing staff involved in the screening, the intake process, at that time?

A. Not to an extent any different than the time frame we're talking about.

Q. Did you partake in any investigation with respect to Rivera's death?

A. Not that I recall.

Q. Do you recall attending any meetings with county personnel, state commissioners, or anyone else pertaining to Rivera's death?

A. Not that I recall.

Q. Did you communicate with anyone within AmeriCor - a health-services administrator or anyone else - about Rivera's death?

A. I'm sure as a matter of -- you know, an inmate death is followed by a review - Did we have any information that might be needed by somebody? But since we were --

Q. Do you recall doing that, though?

A. No. But you know, I mean, it's just -- there's a general review that's done

after an inmate dies.

Q. I understand that that's what you're saying happens; but do you recall doing so in connection with Rivera's death?

A. No.

Q. Did you communicate with the Commission in any way, State Commission?

A. On Rivera?

Q. Yes.

A. Not that I recall.

MS. SERG: Just give us five minutes.

(Recess taken)

MS. BERG: I have no further questions.

MR. COON: Okay.

MS. BERG: Do you, Tim? Questions?

MR. COON: No.

MS. BERG: All right. That's it.

o0o

(Time noted: 1:46 p.m.)

STATE OF NEW YORK)
ss:
COUNTY OF WESTCHESTER)

I, KEVIN DUFFY, the witness herein, having read the foregoing testimony of the pages of this deposition, do hereby certify it to be a true and correct transcript, subject to the corrections, if any, shown on the attached page.

o0o

_____
KEVIN DUFFY

Subscribed and sworn to before me this ___ day of ___, 2008.

_____

STATE OF NEW YORK)
) ss
COUNTY OF ROCKLAND)

I, Donna Bochnik, Notary Public within and for the State of New York, do hereby certify:

That I reported the proceedings in the within entitled matter, and that the within transcript is a true record of said proceedings.

I further certify that I am not related to any of the parties to the action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of January, 2008.

_____
DONNA BOCHNIK,
NOTARY PUBLIC

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NONE.		

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CORRECTION SHEET

Re: DONNA SINKOV v. DONALD B. SMITH

The following corrections, additions or deletions were noted on the transcript of the testimony which I gave in the above-captioned matter, held on 1/17/08.

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KEVIN DUFFY

Subscribed and sworn to before me this ___ day of _____ 2008.

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